

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

In Re:)
)
)
MICHAEL J. DELANEY) CIVIL ACTION NO. 04-10393-NG
Debtor)
_____)
)
J. BRIAN MOORE)
LAURA M. MOORE)
Plaintiffs/Appellants))
)
v.)
)
)
DAVID B. MADOFF)
TRUSTEE IN BANKRUPTCY)
OF MICHAEL J. DELANEY,)
ET AL.)
Defendants/Appellees)
)

FILED
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2005 MAR -7 P 3:55
U.S. DISTRICT COURT
DISTRICT OF MASS

SUPPLEMENTAL BRIEF OF GERRITY COMPANY, INCORPORATED

To the Honorable Nancy Gertner, United States District Judge:

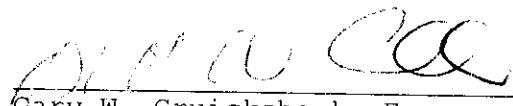
Gerrity Company, Incorporated (hereinafter "Gerrity") submits the following Supplemental Brief in this Appeal. The oral argument on the merits of the appeal is scheduled for March 23, 2005 at 2:30 P.M.

Since the time that Gerrity has filed its appellate brief, the Supreme Judicial Court for the Commonwealth of Massachusetts has entered an Order which denies the request of the Moores for further appellate review. A copy of that decision is included in the Supplemental Appendix as Exhibit A, which document is filed contemporaneously herewith.

Since the issue on the priority of liens is now a final order affirmed by the highest court in the Commonwealth of Massachusetts, it is impossible for the request of the Moores to be granted, namely reversing the Bankruptcy Court and ordering that title to the "Premises" (as defined in the brief of the Moores) be vested in the Moores in accordance with the terms of their contract. Said issue is now fully and completely resolved by the Supreme Judicial Court and is therefore not justiciable by this Court as requested by the Moores. The relief requested by the Moores is impossible to grant given the final order of the Supreme Judicial Court.

Respectfully submitted,
Gerrity Company, Incorporated
By its Counsel,

Dated: 3/3/05




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CERTIFICATE OF SERVICE

I, Gary W. Cruickshank, hereby certify that a copy of the foregoing Supplemental Brief has been served, via regular United States mail, postage prepaid, upon James F. Creed, Jr., Esq., Creed & Formica, Counsel to the Appellants, 1329 Highland Avenue, Needham Massachusetts 02492.

Dated: 3/13/05



Gary W. Cruickshank, Esq.

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RE: Docket No. FAR-14553

J. BRIAN MOORE & another
vs.
GERRITY COMPANY, INCORPORATED

Plymouth Superior (Brockton) No. PLCV1999-00181
A.C. No. 2002-P-1335

NOTICE OF DENIAL OF F.A.R. APPLICATION

Please take note that on 02/02/05, the above-captioned Application for Further Appellate Review was denied.

Susan Mellen, Clerk

Dated: February 2, 2005

To: James F. Creed, Jr., Esquire
Matthew R. Delaney
Scott D. Peterson, Esquire
Stephen A. Greenbaum, Esquire
Catherine J. Savoie, Esquire